



DISABILITY AND COMMUNICATION ACCESS BOARD

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INTERPRETIVE OPINION

Pursuant to §103-50, Hawaii Revised Statutes (HRS), all buildings and facilities constructed by, or on behalf of the State or any county, shall conform to the 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG) and amendments. In accordance to HRS §103-50 and Chapter 11-217, Hawaii Administrative Rules, the Disability and Communication Access Board has authority to issue interpretive opinions to HRS §103-50 design standards.

Docket: **DCAB 2011-09: Within the public right-of-way, is an accessible route required where the public sidewalk stops at the sides of the driveway and the driveway is a continuation of the roadway?**

Summary: The 2004 ADAAG does not address items in the public right-of-way (PROW). However, DCAB receives numerous projects for review that involve the sidewalks and driveways within the PROW. While there are different types of driveways, one that appears frequently is the driveway that is a continuation of the adjacent roadway. These types of driveways are used at heavy traffic areas, such as shopping center driveway entrances or at road intersections with marked crossings and traffic light signalization.

It can be argued that providing pedestrian routes in the PROW is a “program” provided by a Title II entity and that entity, under the ADA, has an obligation to ensure that their program is accessible to the public. Since the PROW is designed and constructed by either the State or counties, those areas are subject to HRS §103-50 which requires buildings, facilities or sites to be accessible. The PROW is a “site” and therefore must be accessible.

There are other situations in which guidelines have been developed but have not yet been adopted by an enforcement agency as a standard. The DOJ has advised that these guidelines can be used as best practice. The U.S. Access Board is developing Draft Final Public Rights-of-Way guidelines; these can be applied as best practice with regards to sidewalks in the public right-of-way.

Ruling: For buildings or facilities subject to HRS §103-50,

ADAAG 403 Walking Surfaces

When a public sidewalk that is part of an accessible route stops at the side of a driveway and the driveway is a continuation of the roadway, the public sidewalk shall comply with ADAAG Section 403 for a distance of 24 inches measured from the delineation between pedestrian route and vehicular way (e.g. curb line) into the driveway.

[Rul: 01/03/2011] (Auth and Imp: HRS §103-50)

If you have any questions or comments regarding this ruling, please call us at 586-8121.
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